

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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BALMINDER SINGH,

Petitioner,

DECISION and ORDER

-vs-

07-CV-6387-CJS-VEB

CHARLES MULE, Facilities Director,  
Buffalo Federal Detention Facility, WILLIAM  
CLEARY, District Director DRO Field Office; and  
MARK FILIP, Acting Attorney General of the  
United States.

Respondents.

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This case was referred to United States Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1). Petitioner moved for summary judgment on June 27, 2008, and Magistrate Judge Bianchini issued a Report and Recommendation on that motion on August 14, 2008. On August 27, 2008, Respondents moved for reconsideration, and before that motion was decided, moved to dismiss the petition as moot, since Petitioner had been successfully deported to India on November 23, 2008. On January 7, 2009, Magistrate Judge Bianchini filed a second Report and Recommendation recommending that the Court grant Respondents' motion to dismiss, and withdrawing the first Report and Recommendation.

The Report and Recommendation was mailed by the Clerk to Petitioner's last known address at the Buffalo Federal Detention Center.<sup>1</sup> To date, Petitioner has filed no

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<sup>1</sup>Western District of New York Local Rule of Civil Procedure 5.1 states in pertinent part as follows: "(d) A party appearing pro se must furnish the Court with a

objections to the second Report and Recommendation.<sup>2</sup> Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination only of those portions of the Report and Recommendation to which objections have been made.

The Court accepts Magistrate Judge Bianchini's Report and Recommendation (Docket No. [27](#)) and for the reasons set forth in it, Respondents' motion to dismiss (Docket No. [26](#)) is granted and the petition is dismissed as moot.

IT IS SO ORDERED.

Dated: January 26, 2009  
Rochester, New York

ENTER:

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/s/ Charles J. Siragusa  
CHARLES J. SIRAGUSA  
UNITED STATES DISTRICT JUDGE

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current address at which papers may be served on the litigant. Papers sent to this address will be assumed to have been received by plaintiff. In addition, the Court must have a current address at all times. Thus, a pro se litigant must inform the Court immediately in writing of any change of address. Failure to do so may result in dismissal of the case with prejudice."

<sup>2</sup>Twelve days have elapsed since the Clerk served the Report and Recommendation by mail to Petitioner. See Fed. R. Civ. P. 6(a).

SERVICE

\*3 The Court notes that while it is serving this Report and Recommendation on Maung's last address in INS custody, it is not likely to reach Maung, since the U.S. Attorney's Office noted that "the INS does not maintain foreign addresses for aliens that it has deported." (10/7/98 Gov't Letter at 2 n.\*.)

Maung v. McElroy L 896709, 2 -3 (S.D.N.Y.,1998)

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